

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:15-CV-73-H(2)

PAUL A. MITCHELL,)
)
Plaintiff,)
)
v.)
)
)
)
PHILLIP A. BADDOUR, JR.)
(individually and in his)
official capacity as Board of)
Trustees Attorney, Wayne)
Community College, and)
KAY ALBERTSON (individually)
and in her official capacity)
as President and Secretary to)
the Board of Trustees, Wayne)
Community College),)
)
Defendants.)

ORDER

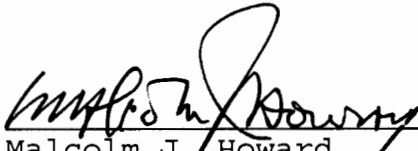
This matter is before the court on plaintiff's application, filed March 2, 2015, to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. United States Magistrate Judge Kimberly A. Swank issued a Memorandum and Recommendation ("M&R") on April 2, 2015, recommending that plaintiff's application to proceed in forma pauperis on his complaint be dismissed as moot. Judge Swank's recommendation is based on the fact that on March 4, 2015, plaintiff resubmitted his complaint to this court for filing, together with the appropriate filing fee. Plaintiff's complaint

was filed and the civil action has been designated as Mitchell v. Baddour et al., No. 5:15-CV-83-H (E.D.N.C. filed Mar. 4, 2015). Plaintiff objects to the M&R, claiming that the M&R's recommendation of dismissal is unlawful. However, this court has reviewed the matter de novo and finds dismissal to be appropriate. Plaintiff has demonstrated an ability to pay by filing his complaint and paying the required fee two days after filing the application at issue herein.

A full and careful review of the M&R and other documents of record convinces the court that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved.

Accordingly, the court adopts the recommendation of the magistrate judge as its own; and for the reasons stated therein, the plaintiff's motion to proceed in forma pauperis is dismissed as moot. The clerk is directed to close the case.

This 25th day of June 2015.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
#26